

MEMORANDUM TO: James J. Jochum
Assistant Secretary
for Import Administration

FROM: Ronald K. Lorentzen
Acting Director
Office of Policy

SUBJECT: Issues and Decision Memorandum for the Expedited Sunset Review of the
Antidumping Duty Order on Stainless Steel Wire Rod from Spain; Final
Results

Summary

We have analyzed the substantive responses of the interested party in the expedited sunset review of the antidumping duty order covering stainless steel wire rod from Spain. We recommend that you approve the positions we have developed in the *Discussion of the Issues* section of this memorandum. Below is the complete list of the issues in this sunset review for which we received a substantive response by a domestic interested party:

1. Likelihood of continuation or recurrence of dumping
 - A. Weighted-average dumping margin
 - B. Volume of imports
2. Magnitude of the margin likely to prevail

Margins from investigation

History of the Order

On July 29, 1998, the Department of Commerce (“the Department”) published in the *Federal Register* its final affirmative determination of sales at less than fair value (“LTFV”) of the antidumping duty order on stainless steel wire rod (“SSWR”) from Spain. *See Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod From Spain*, 63 FR 40391 (July 29, 1998). On September 15, 1998, the Department published the amended final determination of sales at LTFV, and of the order. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Stainless Steel Wire Rod from Spain*, 63 FR 49330 (September 15, 1998). In the amended final determination, the Department found a weighted-average dumping margin of 4.73 percent for Roldan, S.A. (“Roldan”), and an “All Others” rate of 4.73 percent for all other producers, manufacturers, and exporters of SSWR from Spain not specifically listed below. Since the issuance of the order, the Department has completed one administrative review. *See Final Results of Antidumping Duty Administrative Review*, 66 FR 10988 (February 21, 2001). In this administrative review, the Department assigned a dumping margin of 0.80 percent margin to Roldan. The All Others rate remains unchanged at 4.73 percent.

The order remains in effect for all Spanish manufacturers, producers, and exporters of the subject merchandise.

Background

On August 1, 2003, the Department published the notice of initiation of the five-year sunset review of the order on SSWR from Spain, in accordance with section 751(c) of the Tariff Act of 1930, as amended (“the Act”). *See Initiation of Five-Year (Sunset) Reviews*, 68 FR 45219 (August 1,

2003). The Department received a Notice of Intent to Participate on behalf of a domestic interested party, Carpenter Technology Corporation (“Carpenter Technology”), within the deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations*. Carpenter Technology claimed interested party status under section 771(9)(C) of the Act, as a U.S. producer of SSWR.

We received a complete substantive response from Carpenter Technology on September 2, 2003, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i). In its substantive response, Carpenter Technology asserts that it has been involved in this proceeding since its inception and remain committed to full participation in this sunset review.

We did not receive a substantive response from any respondent interested parties to this proceeding. As a result, pursuant to 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C) of the *Sunset Regulations*, the Department determined to conduct an expedited, 120-day, review of this order.

Discussion of the Issues

In accordance with section 751(c)(1) of the Act, the Department conducted this sunset review to determine whether revocation of the order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the order. In addition, section 752(c)(3) of the Act provides that the Department shall provide to the International Trade Commission (“the Commission”) the magnitude of the margin of dumping likely to prevail if the order is revoked. Below we address the comments of the interested

party.

Likelihood of Continuation or Recurrence of Dumping

Interested Party Comments

Carpenter Technology asserts that revocation of the order would likely lead to continuation or recurrence of dumping by the foreign producers and exporters at issue in this sunset review. *See* September 2, 2003, substantive response of the Carpenter Technology at 21.

With respect to the weighted average margin, Carpenter Technology asserts that the Department established a 4.73 percent dumping margin rate for Roldan, and an “All Others” rate of 4.73 percent, in the antidumping duty order. In the only completed administrative review of this order, the Department found a dumping margin of 0.80 percent *de minimis* for Roldan. *See* September 2, 2003, substantive response of the Carpenter Technology at 15.

Carpenter Technology contends that the imposition of antidumping duties has had a dramatic impact on the volume of imports of SSWR from Spain. Using statistical data from official import statistics of the Department of Commerce, Carpenter Technology illustrates that shipments of SSWR to the United States from Spain declined significantly below pre-order volumes, the year of the imposition of the order. *See* September 2, 2003, substantive response of the Carpenter Technology, Attachment 1.

Carpenter Technology notes that the Department considers the weighted-average dumping margins determined in the investigation and in subsequent reviews, as well as the volume of imports for the period before and the period after the issuance of the order, when determining whether revocation of an antidumping duty order would lead to the continuation or recurrence of dumping. *See*

id. at 22. Given the history of this case, Carpenter Technology asserts that dumping of the subject SSWR from Spain would be likely to continue or recur if the order were revoked. *Id.* at 23.

Department's Position

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (“URAA”), specifically the Statement of Administrative Action (“SAA”), H.R. Doc. No. 103-316, vol. 1 (1994), the House Report, H.R. Rep. No. 103-826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103-412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the bases for likelihood determinations. The Department clarified that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2 of the *Sunset Policy Bulletin*). In addition, the Department indicated that it will normally determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly. *See* section II.A.3 of the *Sunset Policy Bulletin*.

In addition, section 751(c)(4)(B) of the Act provides that the Department shall determine that revocation of an order is likely to lead to continuation or recurrence of dumping where a respondent interested party waives its participation in the sunset review. Pursuant to section 351.218(d)(2)(iii) of the regulations, failure to provide a complete substantive response to a notice of initiation constitutes a waiver of participation. In this proceeding, the Department did not receive a substantive response to the notice of initiation from any respondent interested party.

The Department agrees with the Carpenter Technology. As discussed above, the Department considers the weighted average margins from the investigation final reviews and the import volumes of the subject merchandise when determining whether revocation of the order would lead to continuation or recurrence of dumping. In the original investigation and subsequent administrative review, we found that dumping margins above *de minimis* levels continue to exist for Roldan and for all other producers, and exporters of the subject merchandise. With respect to import volumes, imports declined significantly the year the antidumping duty order was imposed. However over the past five years, shipments of SSWR have resumed to pre-order volumes. We find that revocation of the order on SSWR from Spain is likely to continue or recur if the order were revoked, because of the existence of dumping margins above *de minimis* level and the decrease of import levels following the imposition of the order.

Magnitude of the Margin Likely to Prevail:

Interested Party Comments

Carpenter Technology recommends that, consistent with the *Sunset Regulations*, the Department provide to the Commission the company-specific and “All Others” rates from the original investigation because that rate is reflective of the behavior of exporters and producers without the discipline of the order. *See* September 2, 2003, substantive response of Carpenter Technology at 26.

Department’s Position

In the *Sunset Regulations*, the Department stated that it will normally provide to the

Commission the margin that was determined in the final determination in the original investigation. Further, for companies not specifically investigated or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the “All Others” rate from the investigation. *See* section II.B.1 of the *Sunset Policy Bulletin*. Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. *See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*. To date, the Department has not found any duty absorption with respect to SSWR from Spain.

The Department agrees with the Carpenter Technology concerning the choice of the margin rate to report to the Commission. An examination of the margin history of the order confirms that dumping margins have existed throughout the life of the order for Roldan and all other Spanish producers and exporters of SSWR.

Therefore, consistent with the *Sunset Policy Bulletin* and the SAA, we determine that the margin calculated in the Department’s original investigation is probative of the behavior of Spain producers and exporters of SSWR if the order were revoked because that is the only calculated rate that reflects the behavior of exporters without the discipline of the order in place, and no other facts on record compel the Department to reach a different determination. As such, the Department will report to the Commission the company-specific and all others rates from the original investigation as contained in the *Final Results of Review* section of this notice.

Final Results of Review

We determine that revocation of the antidumping duty order on SSWR from Spain would be likely to lead to continuation or recurrence of dumping at the following percentage weighted-average margins:

----- Manufacturers/Producers/Exporters	Weighted-Average Margin (percent)
----- Roldan, S.A.	4.73
All Others	4.73
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Recommendation

Based on our analysis of the substantive responses received, we recommend adopting all of the above positions. If these recommendations are accepted, we will publish the final results of reviews in the *Federal Register*.

AGREE _____

DISAGREE_____

James J. Jochum
Assistant Secretary
for Import Administration

(Date)